

CCUNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JONATHAN B. WILE,

Plaintiff,

vs.

NOTICE OF REMOVAL

Civ. No.:

JAMES RIVER INSURANCE COMPANY,

Defendant.

TO: UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Pursuant to 28 U.S.C. §§ 1141 and 1446(a), defendant JAMES RIVER INSURANCE COMPANY (hereinafter “defendant”), by its attorneys, Nash Connors, P.C., hereby gives notice of the removal of this action from the State of New York Supreme Court, County of Erie, to the United States District Court for the Western District of New York.

PROCEDURAL HISTORY

1. Pursuant to Local Rule 81(a)(3)(A), an Index of all documents filed to date in the State Court action is attached hereto as **Exhibit A**.

2. Plaintiff JONATHAN B. WILE filed his summons and complaint, attached hereto as **Exhibit B**, in the Erie County Clerk’s Office on November 20, 2017 (Erie County Index No. 816795/2017).

3. On November 28, 2017, counsel for the plaintiff emailed a copy of the aforementioned summons and complaint to Philip M. Gulisano, Esq., counsel for the defendant. Thereafter, counsel for defendant advised counsel for plaintiff via email on November 30, 2017 that he could accept service of the summons and complaint. On December 4, 2017, counsel for

defendant confirmed that he would appear for the defendant within thirty (30) days, i.e., on or before January 3, 2018.

4. In the complaint, plaintiff seeks damages in the amount of \$900,000, plus interest.

5. Less than 30 days have elapsed since service of the summons and complaint. As such, removal is timely. *See* 28 U.S.C. § 1446(b)(1).

DIVERSITY JURISDICTION

6. Plaintiff's complaint alleges that “[a]t all times herein, the plaintiff, JONATHAN B. WILE, was and is a resident of the Town of Amherst, County of Erie, and State of New York.” Exhibit B, ¶ 1.

7. Plaintiff alleges in his complaint that he is entitled to SUM coverage pursuant to an insurance contract with the defendant, arising out of an accident that occurred on June 22, 2014, which is within the applicable period of coverage. Exhibit B, ¶¶ 4, 5.

8. Pursuant to 28 U.S.C. § 1332(c)(1), a corporation shall be a citizen of every state in which it has been incorporated and of the state where it has its principal place of business. Defendant is incorporated in the State of Ohio, with its principal place of business/corporate headquarters located in Richmond, Virginia.

9. Accordingly, this Court possesses jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a) based upon complete diversity of citizenship.

SUBJECT MATTER JURISDICTION

10. Plaintiff alleges entitlement to damages in the amount of \$900,000.00 plus interest.

See Exhibit B.

11. Thus, this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) in that it is a civil action between “citizens of different States” and the matter

in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

12. Venue is proper pursuant to 28 U.S.C. § 1441(a) as this is the federal district court for the district embracing the place where the State Court suit is pending.

WHEREFORE, defendant JAMES RIVER INSURANCE COMPANY files this notice of removal so that the entire State Court action under Index No. 816795/2017 now pending in the State of New York Supreme Court, County of Erie, be removed to this Court for all further proceedings.

DATED: Buffalo, New York
December 6, 2017

NASH CONNORS, P.C.



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